

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL J KEARNEY,

Plaintiff,

V.

JOHN D SNAZA et al.

Defendants.

CASE NO. C13-5383 RJB-JRC

ORDER DENYING PLAINTIFF'S
MOTION TO CONSOLIDATE THIS
ACTION WITH 13-5382BHS/KLS AND
DENYING PLAINTIFF'S MOTION TO
SERVE DEFENDANTS WITH COPIES
OF PLAINTIFF'S FILINGS

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creature. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and Magistrate Judge Rules MJR3 and MJR4.

Plaintiff has filed a motion titled “notice consolidating plaintiff’s outgoing legal mail impediment barrier.” (ECF No. 33). Plaintiff appears to be trying to consolidate his action, or an issue from his action, with another case, *Barton v. Snaza*, 13-5382BHS/KLS.

The Court has examined the two actions. Mr. Kearney is challenging Thurston County's alleged practice of not allowing jail detainees to appear at their civil forfeiture hearings because

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1 the hearing is civil in nature and is not held in the jail (ECF No. 5). Plaintiff also alleges that jail
2 policies regarding the making of copies violate his right of access to courts (*id.*).

3 Mr. Barton's case is in a different procedural posture and the court is awaiting the filing
4 of an amended complaint. *Barton v. Snaza*, 13-5382BHS/KLS. The Hon. Judge Strombom has
5 already denied a motion to consolidate Mr. Barton's case with this case (*Barton v. Snaza*, 13-
6 5382BHS/KLS. ECF No. 34). The Hon. Judge Strombom stated:

7 Mr. Barton and another inmate, Daniel J. Kearney have filed a number of
8 motions/notice as joint or consolidated pleadings. Mr. Kearney has also filed a §
9 1983 case in this Court naming similar parties. *Kearney v. Snaza, et al.*, Case No.
10 C13-5383 RJB/JRC. One of the joint motions is entitled "notice consolidating
11 plaintiff's outgoing legal mail impediment [sic] barrier." The Court interprets this
12 motion as one seeking to consolidate the two actions. By Order dated August 14,
13 2013, the Clerk was directed to return the remaining "joint" filings to Mr.
14 Kearney, whose name and return address are on the envelope in which the filings
15 were sent to the Court. (ECF No. 44 in Case No. C13-5383RJB/JRC).

16 With regard to the motion to consolidate (ECF No. 24), the Court declines
17 to grant the motion. The viability of Plaintiff's Amended Complaint is the subject
18 of a separate Order. Thus, there is no active complaint in this case and at this
19 time, there are no grounds warranting consolidation of the two cases.

20 There is no reason for the Court to consolidate these two actions. Plaintiff's
21 motion is denied. Plaintiff's motion to consolidate the record, (ECF No. 47), is also
22 denied because there is no reason to consolidate documents that are electronically stored.

23 Plaintiff has made a number of improper filings in this action and is attempting to
24 file "notices" instead of filing motions that are noted and served on opposing counsel
(ECF No. 33, 37, 38, 40). Plaintiff is also filing repetitive motions without waiting for a
ruling on the first motion (ECF No. 37 and 48).

25 In his motions, plaintiff alleges that because he cannot get photocopies, he cannot
26 serve copies of his pleadings of opposing counsel. Plaintiff asks the clerk's office to serve
27 his filings for him. The record shows that plaintiff has access to paper and a writing

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29 CONSOLIDATE THIS ACTION WITH 13-
30 5382BHS/KLS AND DENYING PLAINTIFF'S
31 MOTION TO SERVE DEFENDANTS WITH
32 COPIES OF PLAINTIFF'S FILINGS - 2

1 implement. Plaintiff has the ability to hand copy his documents and serve a copy on
2 opposing counsel and a copy on the Court with a certificate of service stating that his
3 copy to opposing counsel was "hand copied." Plaintiff's motions asking that the Clerk's
4 office to make copies for him and serve his pleadings on opposing counsel, (ECF No. 37
5 and 48), are denied.

6 In summary, the Court has denied ECF No. 33, 37, 47, and 48 in this order.

7 Dated this 10th day of September, 2013.

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10 J. Richard Creatura
11 United States Magistrate Judge